

PROPOSED RESOLUTION

Resolution W-5103
Water Division

AGENDA ID #14960 (Rev. 1)
Item #36

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION

RESOLUTION W-5103
June 23, 2016

RESOLUTION

(RES. W-5103 – OPTION A) RESOLUTION ORDERING WATER UTILITY COMPLIANCE WITH THE STATE WATER RESOURCES CONTROL BOARD'S RESOLUTION NO. 2016-0029, ADOPTED MAY 18, 2016 ALLOWING SELF-CERTIFICATION BASED ON EACH WATER UTILITY'S AVAILABLE WATER SUPPLIES, DROUGHT CONDITIONS, AND PROJECTED DEMAND.

SUMMARY

On November 13, 2015 Governor Edmund Brown Jr. issued Executive Order (EO) B-36-15 calling for an extension of urban water use restrictions until October 31, 2016, should drought conditions persist through January 2016. This EO also directed the State Water Resources Control Board (Water Board) to consider modifying the restrictions to incorporate insights gained from the existing restrictions. On February 2, 2016, the Water Board adopted Board Resolution No. 2016-0007 and a revised, extended Drought Emergency Water Conservation Regulation (Emergency Regulation) to address specific provisions of EO B-36-15. The Emergency Regulation established adjustments to reduce the conservation standards of urban water suppliers in consideration of the differences in climate affecting different parts of the state, growth experienced by urban areas, and significant investments that have been made by some suppliers towards creating new, local, drought-resilient sources of potable water supply.

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On May 9, 2016, Governor Edmund Brown Jr. issued EO B-37-16 calling on the Water Board to adjust emergency water conservation regulations through the end of January 2017 in recognition of differing water supply conditions across the state. On May 9, 2016 the Water Board issued staff-proposed regulatory language for public comment based in part on the April 20, 2016 workshop and comments received, and in part on EO B-37-16. The staff proposal reflects careful consideration by the Water Board and staff of all comments including those directed at the levels of required reduction and the basis upon which water use reductions should be required. The draft regulatory language extends portions of the February 2016 emergency regulation and establishes a process for developing locally appropriate water conservation standards in recognition of differing water supply conditions across the state. The final Emergency Regulation was adopted by the Water Board at its meeting on May 18, 2016 by Resolution No. 2016-0029. The Emergency Regulation and accompanying Fact Sheets are available at: http://www.waterboards.ca.gov/water_issues/programs/conservation_portal/emergency_regulation.shtml

The revised Emergency Regulation, among other things, replaces the prior percentage reduction-based water conservation standard with a locally-developed conservation standard based on each water supplier's specific circumstances. Individual urban water suppliers are required to self-certify the level of available water supplies they have assuming three additional dry years with the same level of precipitation the state experienced from 2013 to 2015 and a level of water conservation necessary to assure adequate supply over that time. Urban water suppliers that face shortages under the three additional dry years are required to meet a conservation standard equal to the

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amount of the shortage. For example, if a water supplier projects it will have a 15 percent shortfall, its mandatory conservation standard would be 15 percent.

Accordingly, this Resolution orders the Class A and B water utilities to comply with the Water Board's May 18, 2016 Emergency Regulation adopted by Resolution No. 2016-0029. Furthermore, Class A and B water utilities that do not identify a conservation standard as required by Section 864.5 of the Emergency Regulation, or if the Water Board rejects the water utility's conservation standard, the utility shall continue to implement the mandatory water conservation actions adopted by Res. W-5041 and Res. W-5082, with the modifications provided in Section 865 of the Water Board's Emergency Regulation.

Section 864 of the Emergency Regulation prohibits waste and unreasonable use of water to promote water conservation, except where necessary to address immediate health and safety needs or to comply with a term or condition in a permit issued by a state or federal agency. EO B-37-16 makes the water use restrictions in Sections 864(a) permanent, except for restrictions No. 6 and 8.¹ Accordingly, we direct all water utilities, to enforce and comply with the water use restrictions identified in Section 864(a) of the Emergency Regulation. Class C and D water utilities² shall also comply

¹ The serving of drinking water other than upon request in eating or drinking establishments, and irrigation of landscapes outside of newly constructed homes and buildings inconsistent with the Emergency Regulation or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

² As defined in General Order 96-B Water Industry Rules Section 1.2 Class C, and D investor owned water utilities serve 501 through 2,000 and less than 500 service connections, respectively.

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with the reporting requirements included in Section 864 (g)2 of the Emergency Regulation.

Finally, the Commission invites bold actions by its jurisdictional utilities to continue to maintain the water use restrictions³ by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers⁴, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor water rules; and (6) limits on total water use.

SAFETY

The Commission is issuing this Resolution to conserve potable water by restricting its use for outside watering and irrigation and by limiting the use of potable water for inside use to ensure that California has sufficient water supplies, including safe and adequate drinking water, to provide for the safety and welfare of its citizens.

COMMENTS

As provided by Rule 14.6 (a) of the Commission's Rules of Practice and Procedure and Public Utilities Code section 311 (g)(2), the 30-day public review and comment period has been reduced given the unforeseen emergency situation addressed by this

³ Class A and B water utilities that do not establish a conservation standard as required by Section 864.5 of the Emergency Regulation shall continue to enforce the mandatory use restrictions established by Res. W-5041 and Res. W-5082 as modified by Section 865 of the Emergency Regulation.

⁴ Outliers include those users that are in the highest category of water users that may be masked by overall consumption from average users. Targeting these outliers could reduce overall water use.

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Resolution. Comments were due Monday June 13, 2016. Comments were received from the City of Thousand Oaks, California Water Service, Regional Water Authority, California American Water, Great Oaks Water Company, and California Water Association. All of the comments received support the adoption of Res. W-5103 Option A for the following reasons:

- 1) Option A requires water utilities to comply with the Water Board's Resolution No. 2016-0029 and gives suppliers the option to replace the demand-based percentage reduction conservation standard with locally developed supply-based percentage reduction standard reflective of each supplier's water supply conditions for their respective areas;
- 2) Option A provides water utilities the flexibility to establish their conservation standard using the self-certification method or continue the mandatory water conservation required by Res. W-5041 and Res. W-5082, as modified by Section 865 of the Emergency Regulation;
- 3) Option A allows for more equitable treatment for water suppliers and their customers throughout the state and recognizes the significant investments water providers have made to have more reliable and resilient supplies; and
- 4) Option A would provide a more consistent water conservation public outreach messaging for water suppliers.

All of the comments received have been considered and no changes have been made to the proposed resolution since all the comments filed were in support of the adoption of Res. W-5103 Option A.

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FINDINGS AND CONCLUSIONS

1. On November 13, 2015 Governor Edmund Brown Jr. issued Executive Order (EO) B-36-15 calling for an extension of urban water use restrictions until October 31, 2016, should drought conditions persist through January 2016.
2. The EO also ordered further reductions in potable water usage through February 2016. The EO directed the Commission and the State Water Resources Control Board (Water Board) to impose restrictions to achieve a statewide 25% reduction in potable water usage and to direct the suppliers and utilities to develop rate structures and other pricing mechanisms to achieve this 25% water conservation.
3. On February 2, 2016, the Water Board adopted Resolution No. 2016-0007 and a revised, extended Emergency Regulation to address specific provisions of EO B-36-15. The Drought Emergency Water Conservation Regulation (Emergency Regulation) established adjustments to reduce the conservation standards of urban water suppliers in consideration of the differences in climate affecting different parts of the state, growth experienced by urban areas, and significant investments that have been made by some suppliers towards creating new, local, drought-resilient sources of potable water supply.
4. On May 9, 2016, Governor Edmund Brown Jr. issued EO B-37-16 calling on the Water Board to adjust its emergency water conservation regulations through the end of January 2017 in recognition of differing water supply conditions across the state.

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5. On May 9, 2016 the Water Board issued staff-proposed regulatory language for public comment based in part on the April 20, 2016 workshop and comments received, and in part on EO B-37-16.
6. On May 18, 2016 the Water Board adopted the final Emergency Regulation.
7. Class A and B water utilities must comply with the Water Board's May 18, 2016 Emergency Regulation by Resolution No. 2016-0029.
8. Class A and B water utilities that do not identify a conservation standard as required by Section 864.5 of the Emergency Regulation, or if the Water Board rejects the water utility's conservation standard, the utility shall continue to implement the mandatory water conservation actions adopted by Res. W-5041 and Res. W-5082, with the modifications provided in Section 865 of the Emergency Regulation.
9. All water utilities shall enforce and comply with Sections 864(a) of the Emergency Regulation.
10. The Commission expects bold actions by its jurisdictional utilities in its enforcement of the water use restrictions, as set-forth in this Resolution, by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor water rules; and (6) limits on total water use.

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11. Class C and D water utilities shall comply with the reporting requirements included in Section 864 (g)2 of the Emergency Regulation.
12. These emergency regulations are necessary to preserve sufficient potable water to ensure safe drinking water for Californians.
13. As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure and Public Utilities Code section 311(g)(2), the 30-day public review and comment period has been reduced given the unforeseen emergency situation addressed by this Resolution.

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THEREFORE, IT IS ORDERED THAT:

1. All water utilities under the jurisdiction of the California Public Utilities Commission shall comply with the Drought Emergency Water Conservation Regulation (Emergency Regulation) for statewide urban water conservation adopted by the State Water Resources Control Board by Resolution No. 2016-0029 at its meeting of May 18, 2016.
2. Class A and B water utilities that do not identify a conservation standard under self-certification as required by Section 864.5 of the Emergency Regulation, or if the State Water Resources Control Board rejects the water utility's conservation standard, the utility shall continue to implement the mandatory water conservation actions adopted by Res. W-5041 and Res. W-5082, with the modifications provided in Section 865 of the State Water Resources Control Board's Emergency Regulation.
3. All water utilities shall enforce and comply with Section 864(a) of State Water Resources Control Board's Emergency Regulation.
4. All water utilities shall continue to take bold actions in its enforcement of the water use restrictions, as set-forth in this Resolution, by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor water rules; and (6) limits on total water use.

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5. Class C and D water utilities shall comply with the reporting requirements included Section and 864 (g)2 of the State Water Resources Control Board's Emergency Regulation.
6. All water utilities shall comply with all monitoring and reporting requirements as established by the State Water Resources Control Board.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 23, 2015; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

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